



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R08-OAR-2018-0235; FRL-9993-66-Region 8]**

**Approval and Promulgation of Air Quality Implementation Plans; State of Montana; Missoula PM<sub>10</sub> Nonattainment Area Limited Maintenance Plan and Redesignation Request**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Limited Maintenance Plan (LMP), submitted by the State of Montana to the EPA on August 3, 2016, for the Missoula moderate particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>) nonattainment area (Missoula NAA) and concurrently redesignating the Missoula NAA to attainment of the 24-hour PM<sub>10</sub> National Ambient Air Quality Standard (NAAQS). In order to approve the LMP and redesignation, the EPA is determining that the Missoula NAA has attained the 1987 24-hour PM<sub>10</sub> NAAQS of 150 µg/m<sup>3</sup>. This determination is based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2015–2017. The EPA is also approving the Missoula LMP as meeting the appropriate transportation conformity requirements. Lastly, the EPA is approving certain rule revisions the Missoula City-County Air Pollution Control Program submitted on August 3, 2016, and August 22, 2018.

**DATES:** Effective **insert date 30 days after date of publication in the Federal Register**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA-R08-OAR-2018-0235. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g.,

confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through , or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** James Hou, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6210, [hou.james@epa.gov](mailto:hou.james@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

The Missoula NAA encompasses the City of Missoula and was designated nonattainment for the 1987 24-hour PM<sub>10</sub> NAAQS and classified as moderate under section 107(d)(4)(B), following enactment of the Clean Air Act (CAA) Amendments of 1990. *See* 56 FR 56694 (November 6, 1991). On August 30, 1995, the EPA fully approved the Missoula NAA PM<sub>10</sub> plan including reasonably available control measures (RACM), an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency requirements.

The factual and legal background for this action is discussed in detail in our March 5, 2019 (84 FR 7846) proposed approval of certain rule revisions to the Missoula City-County Air Pollution Control Program, the Missoula Limited Maintenance Plan, the Missoula LMP as meeting the appropriate transportation conformity requirements, and concurrent redesignation of the Missoula NAA to attainment of the NAAQS for PM<sub>10</sub>.

## **II. Response to Comments**

The public comment period on the EPA's proposed rule opened on March 5, 2019, the date of its publication in the **Federal Register**, (84 FR 7846), and closed on April 4, 2019.

During this time, the EPA received no comments.

### **III. Final Action**

The EPA is making the determination that the Missoula NAA has attained the 1987 24-hour PM<sub>10</sub> NAAQS of 150 µg/m<sup>3</sup>. This determination is based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2015–2017. Additionally, the EPA is approving the Missoula NAA LMP submitted on August 3, 2016, as meeting the applicable CAA requirements, and we have determined the LMP to be sufficient to provide for maintenance of the PM<sub>10</sub> NAAQS over the course of the 10-year maintenance period out to 2029. The EPA is also approving the Missoula LMP as meeting the appropriate transportation conformity requirements found in 40 CFR 93, subpart A. The EPA is approving most of the revisions submitted on August 3, 2016 and August 22, 2018 (Chapter 4 revisions). Specifically, the EPA is approving revisions to the eight chapters on Definitions, Failure to Attain Standards, Emergency Episode Avoidance Plan, Industrial Sources, Fugitive Particulate, Solid Fuel Burning Devices, Administrative Procedures, and Penalties. As identified in Section IV of the March 5, 2019 proposed approval, the EPA is not acting on Chapter 9, rule 9.204 in the August 3, 2016 submittal or the IBR revisions in the August 22, 2018 submittal. Lastly, this rule redesignates the Missoula NAA from nonattainment to attainment of the PM<sub>10</sub> NAAQS. A list of the revisions to the Missoula City-County Air Pollution Control Program that the EPA is approving is outlined in Table 1 below.

Table 1 – List of Montana Revisions that EPA is Approving

<b>Revised Sections in August 3, 2016 and August 22, 2018 Submissions that EPA is</b>
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<b>Approving</b>	
<u>August 3, 2016 submittal</u>	<b>– Missoula City-County Air Pollution Control Program:</b> 2.101, 3.102, 4.102, 4.103, 4.104, 4.112, 4.113, 6.101, 6.102, 6.106, 6.107, 6.108, 6.501, 6.502, 6.504, 6.601, 6.605, 7.101, 7.106, 7.107, 7.110, 8.101, 8.102, 8.104, 8.202, 8.203, 8.204, 8.205, 9.101, 9.102, 9.103, 9.104, 9.201, 9.202, 9.203, 9.205, 9.206, 9.207, 9.208, 9.209, 9.210, 9.211, 9.301, 9.302, 9.401, 9.402, 9.501, 9.601, 14.106, 14.107, 15.104
<u>August 22, 2018 submittal</u>	<b>– Missoula City-County Air Pollution Control Program:</b> 4.103, 4.104, 4.112,

#### **IV. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan (SIP), have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.

#### **V. Statutory and Executive Orders Review**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements

beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT**

**DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

## **List of Subjects**

### **40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

### **40 CFR Part 81**

Environmental protection, Air pollution control, National Parks, Wilderness areas.

Dated: May 18, 2019.

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Debra Thomas,  
Acting Regional Administrator,  
EPA Region 8.

40 CFR parts 52 and 81 are amended as follows:

## **PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

### **Subpart BB - Montana**

2. In § 52.1370:

a. In the table in paragraph (c), under (c)(2)(iv) ("Missoula County"), is amended by:

i. Revising the table entries for "2.101," "3.102," "4.102," "4.103," "4.104," "6.101," "6.102," "6.103," "6.106," "6.107," "6.108," "6.501," "6.502," "6.504," "6.601," "7.101," "7.106," "7.107," "7.110," "8.101," "8.102," "8.104," "8.202," "8.203," "8.204," "8.205," "9.101," "9.102," "9.103," and "9.104," "14.106," "14.107," and "15.104;"

ii. Removing the table entries for "4.112," "9.105," "9.106," "9.107," "9.108," "9.109," "9.110," "9.111," "9.112," "9.113," "9.114," "9.115," "9.116," "9.117," "9.118," and "9.119;"

iii. Adding in numerical order the table entries for "4.113," "9.201," "9.202," "9.203," "9.205," "9.206," "9.207," "9.208," "9.209," "9.210," "9.211," "9.301," "9.302," "9.401," "9.402," "9.501," and "9.601"; and

b. In the table in paragraph (e) under (e)(6) ("Missoula County"), by adding in alphabetical order an entry for "Missoula 1987 PM<sub>10</sub> Limited Maintenance Plan".

The revisions and additions read as follows:

### **§ 52.1370 Identification of plan.**

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(c) \* \* \*



State citation	Rule title	State effective date	EPA final rule date	Final rule citation	Comments
*****					
(2) County Specific					
*****					
(iv) Missoula County					
*****					
2.101	Definitions	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
3.102	Particulate Matter Contingency Measures	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
4.102	Applicability	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
4.103	General provisions	5/14/2010 4/06/2018	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
4.104	Air Pollution Control Stages	5/14/2010 4/06/2018	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
4.113	Contingency Measure	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	

*****					
6.101	Definitions	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
6.102	Air Quality Permit Required	5/14/2010 3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
6.103	General Conditions	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
6.106	Public Review of Air Quality Permit Application	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
6.107	Issuance or Denial of an Air Quality Permit	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
6.108	Revocation or Modification of an Air Quality Permit	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
6.501	Emission Control Requirements	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
6.502	Particulate Matter from Fuel Burning Equipment	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	

*****					
6.504	Visible Air Pollutants	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
6.601	Minimum Standards	5/14/2010 3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
7.101	Definitions	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
7.106	Minor Outdoor Burning Source Requirements	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
7.107	Major Outdoor Burning Source Requirements	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
7.110	Conditional Outdoor Burning Permits	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
8.101	Definitions	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	

			publication]		
8.102	General Requirements	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
8.104	Construction and Mining Sites	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
8.202	New Roads in the Air Stagnation Zone	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
8.203	New Parking Areas in the Air Stagnation Zone	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
8.204	New Driveways in the Air Stagnation Zone	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
8.205	Unpaved Access Roads	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
9.101	Intent	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.102	Definitions	5/14/2010	[Insert <b><u>Federal Register</u></b>	[Insert <b><u>Federal Register</u></b>	

			date of publication]	citation]	
9.103	Fuels	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.104	Non-Alert Visible Emission Standards	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.201	Swan River Watershed Exempt from Subchapter 2 Rules	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.202	Permits Required for Solid Fuel Burning Devices	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.203	Installation permits Inside the Air Stagnation Zone	5/14/2010 3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.205	Alert Permits	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.206	Sole Source Permits	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.207	Special Need Permits	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.208	Temporary Sole Source Permit	5/14/2010	[Insert <b><u>Federal Register</u></b> date of	[Insert <b><u>Federal Register</u></b> citation]	

			publication]		
9.209	Permit Applications	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.210	Revocation or Modification of Permit	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.211	Transfer of Permit	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.301	Applicability	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.302	Prohibition of Visible Emissions during Air Pollution Alerts and Warnings	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.401	Emissions Certification	5/14/2010 3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.402	Sale of New Solid Fuel Burning Devices	5/14/2010 3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
9.501	Removal of Solid Fuel Burning Devices upon Sale of the Property	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	

9.601	Contingency Measures listed below in this subchapter go into affect if the non-attainment area fails to attain the NAAQS or to make reasonable progress in reducing emissions (see Chapter 3).	5/14/2010	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
14.106	Administrative Review	5/14/2010 3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
14.107	Control Board Hearings	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
*****					
15.104	Solid Fuel Burning Device Penalties	3/21/2014	[Insert <b><u>Federal Register</u></b> date of publication]	[Insert <b><u>Federal Register</u></b> citation]	
* * * * *					

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(e) \* \* \*

Title/Subject	State effective date	Notice of final rule date	NFR Citation
* * * * *			
(6) Missoula County			
* * * * *			
Missoula 1987 PM-10		[Insert date]	[Insert <b><u>Federal Register</u></b>

<b>Limited Maintenance Plan</b>		<b>30 days from date of publication in the <u>Federal Register</u>.</b>	<b>citation].</b>
* * * * *			

3. Section 52.1374 is amended by adding paragraph (d) to read as follows:

**§ 52.1374 Control strategy: Particulate matter.**

\* \* \* \* \*

(d) On August 3, 2016, the State of Montana submitted a maintenance plan for the Missoula PM<sub>10</sub> nonattainment area and requested that this area be redesignated to attainment for the PM<sub>10</sub> National Ambient Air Quality Standards. The redesignation request and maintenance plan satisfy all applicable requirements of the Clean Air Act.

**PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

4. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart C – Section 107 Attainment Status Designations**

5. In § 81.327 the table entitled “Montana - PM-10” is amended by revising the entry for “Missoula County, Missoula and vicinity including the following sections:” to read as follows:

**§ 81.327 Montana.**

\* \* \* \* \*

**Montana - PM-10**

<b>Designated Area</b>	<b>Designation</b>	<b>Classification</b>
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	<b>Date</b>	<b>Type</b>	<b>Date</b>	<b>Type</b>
* * *	*	*	*	*
Missoula County, Missoula and vicinity including the following sections:	<b>[Insert date 30 days after date of publication in the <u>Federal Register</u>]</b>	Attainment		
* * *	*	*	*	*

\* \* \* \* \*

[FR Doc. 2019-10797 Filed: 5/23/2019 8:45 am; Publication Date: 5/24/2019]